

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	
Daniel Mattias Larson, et. al.)	
)	
Serial No.: 09/802,114)	Group Art Unit: 2161
)	
Filed: March 8, 2001)	Examiner: E.P. Leroux
)	
For: METHOD AND SYSTEM FOR)	
INDEXING INFORMATION AND)	
PROVIDING RESULTS FOR A)	
SEARCH INCLUDING OBJECTS)	
HAVING PREDETERMINED)	
ATTRIBUTES)	

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SUPPLEMENTAL APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed on July 2, 2008, the Notice of Non-compliant Appeal Brief mailed December 2, 2008, and pursuant to 37 C.F.R. § 41.37, Appellants present this appeal brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-3, 6-9, 12-14 and 17-20 in the Final Office Action dated January 8, 2008. The appealed claims are set forth in the attached Claims Appendix.

In response to the Notice of Non-compliant Appeal Brief, Applicants hereby include additional reference citations in section 5, "Summary of Claimed Subject Matter."

Appellants strenuously object to the Examiner's untimely indication regarding the recited limitation of "non-text indexable elements," language Appellants submitted in an Amendment filed more than 12 months ago (November 2007). Indeed, the Examiner accepted and examined these recited limitations in issuing a subsequent final Office Action. Moreover, an in-person interview was conducted with the Examiner whereupon these exact limitations were discussed at great length, as acknowledged by the Examiner in his May 12, 2008 interview summary. After extensive time, effort and costs to the Appellant, Examiner Leroux is only now indicating reservations regarding this language not being expressly noted verbatim within the four corners of the filed application.

If the Examiner had reservations regarding this language, the Examiner could have presented concerns: (1) upon examining Appellants November 2007 amendment, (2) while the Examiner was conducting further prior art searching in response to the November 2007 amendment, (3) any time prior to the in-person interview, (4) any time during the in-person interview when these terms were being discussed, or (5) any time during interval between when Appellants were attempting to contact Examiner Leroux to follow-up on the in-person interview and when Appellants filed a Notice of Appeal. Only now, more than 12 months later, is the Examiner providing any indication regarding concerns for these claim terms.

Appellants re-iterate that which has previously been asserted to the Examiner both in the previously-filed response and during the in-person interview: the non-text indexable elements recite those exact items being described by the general term as elements that are non-text and capable of being indexed. The example, discussed at length in the in-person interview was that of a sample non-text indexable element of an image. Page 9, lines 15-25 and page 10, lines 20-22 of the present application expressly describe the embodiment of the non-text indexable element being an image and a that spider is operative to mine web pages looking for images.

Appellants submit that the originally-cited passages provide a proper summary of the claimed subject matter in accordance with the requirements of 37 C.F.R. 41.37. To avoid confusion, however, Appellants hereby additionally cite to page 5, lines 7-14, which describes the location identifier, as well as page 5, lines 15-27, which describes the indexing of the text and location identifier. Appellants additionally cite to page 7, lines 1-13, which describes the indexing and serving of images, and also explicitly point out page 9, lines 19-22, which expressly describes location information associated with a non-text indexable element (in this embodiment being an image), as well associated annotations or other text, where the text is described at length in the cited passages above as including location identifiers. Therefore, at a very minimum, but not an explicit requirement, an image may have annotated text associated therewith and the text allows for the location identifier for the non-text indexable element of the image consistent with the invention disclosed herein.

Accordingly, Appellants submit that not only is the present Notice of Non-Compliant Appeal Brief improper, but that the Summary of the Claimed Subject Matter was previously in compliance with the requirements of 37 C.F.R. 41.37.

In addition to the foregoing, Appellants hereby update the claim identifiers consistent with a recent change to 37 C.F.R. 41.37(c)(1)(iii).

1. Real Party in Interest

This application was originally assigned to AltaVista Company, which was later acquired by Overture Services, Inc., which was later acquired by Yahoo! Inc. of Sunnyvale, CA, the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences which would directly affect, be directly affected by, or have a bearing on the instant appeal.

3. Status of Claims

Claims 1-3, 6-9, 12-14 and 17-20 are pending. Claims 4-5, 10-11, 15-16 and 21-22 have been cancelled. The final rejection of claims 1-3, 6-9, 12-14 and 17-20 is being appealed.

4. Status of Amendments

All amendments submitted by the Appellant have been entered.

5. Summary of Claimed Subject Matter

Claim 1 recites a method for providing at least one search result responsive to a search query comprising at least one search query term. (see, for example, page 2, lines 7-10, page 4, lines 11-14, page 6, lines 5-9). The method comprises parsing a set of

pages for a plurality of text and non-text indexable elements. (see, for example, page 4, lines 11-14, page 5, lines 7-14, page 10, lines 13-22). The method comprises assigning a location identifier to one or more of the plurality of text and non-text indexable elements, the location identifier corresponding to a location of a given text and non-text indexable element in a given page from the set of pages. (see, for example, page 5, lines 7-27, page 7, lines 1-13, page 9, lines 15-25, page 10, lines 20-22). The method comprises storing the plurality of text and non-text indexable elements and the corresponding location identifier for the one or more of the plurality of text and non-text indexable elements in a computer readable medium as a plurality of records. (see, for example, 9, lines 23-25). The method comprises receiving the search query to request a stored record, the search query received from a user across a networked connection. (see, for example, page 9, line 28, step 502 of Fig. 5). The method comprises searching said plurality of records to determine text and non-text indexable elements that correspond to the search query. (see, for example, page 9, lines 28-29, step 504 of Fig. 5). The method comprises transmitting at least one text element representation of said query result to the user across the networked connection. (see, for example, page 10, lines 1-2, step 506 of Fig. 5). And the method comprises transmitting at least one non-text element representation of said query result to said user across the networked connection. (see, for example, page 10, lines 2-4, step 508 of Fig. 5).

Claim 7 recites a method for indexing records in an index of the world wide web. (see, for example, page 10, lines 13-22). The method comprises receiving a record from the world wide web and parsing the record for associated text and a non-text indexable elements. (see, for example, page 4, lines 11-14, page 5, lines 7-14, page 10,

lines 13-22). The method comprises creating representations of the parsed text and non-text indexable elements. (see, for example, page 7, lines 2-13, page 7, lines 16-23). The method comprises assigning a location identifier to one or more of the representations of the parsed text and non-text indexable elements, the location identifier corresponding to a location of a given text and non-text indexable element in the record. (see, for example, page 5, lines 7-27, page 7, lines 1-13, page 9, lines 15-25, page 10, lines 20-22). And the method comprises storing the representations and the corresponding location identifiers in association with the record as a one or more word location pairs (see, for example, page 9, lines 23-25, page 5, line 16 to page 6, line 3).

Claim 12 recites a system for providing at least one search result responsive to a search query comprising at least one search query term. (see, for example, page 2, lines 7-10, page 4, lines 11-14, page 6, lines 5-9). The system comprises a parse module for parsing the at least one record for text and non-text indexable elements and assigning a location identifier to one or more of the plurality of text and non-text indexable elements, the location identifier corresponding to a location of a given text and non-text indexable element in the at least one record. (see, for example, page 4, lines 11-14, page 5, lines 7-14, page 10, lines 13-22, page 9, lines 15-25). The system comprises an indexing module for indexing the text and non-text indexable elements and the corresponding location identifier for the one or more of the plurality of text and non-text indexable elements. (see, for example, page 5, lines 7-27, page 7, lines 1-13, page 9 lines 15-25, page 10, lines 20-22). The system comprises a query module for receiving the search query, the search query requesting at least one text and non-text indexable element in the world wide web, the search query received from a

user across a networked connection. (see, for example, page 9, line 28, step 502 of Fig. 5). The method comprises a search module for locating corresponding text and non-text indexable element relating to the search query. (see, for example, page 9, lines 28-29, step 504 of Fig. 5). And the system comprises a transmitter for transmitting a representation of the non-text indexable element and a text representation corresponding to the search query result to the user across the networked connection. (see, for example, page 10, lines 2-4, step 508 of Fig. 5).

Claim 18 recites a system for indexing records in an index of an information network. (see, for example, page 10, lines 13-22). The system comprises a parser for parsing a record for text and non-text indexable elements. (see, for example, page 4, lines 11-14, page 5, lines 7-14, page 10, lines 13-22). The system comprises a database for storing said text and non-text indexable elements. (see, for example, page 5, lines 7-27, page 7, lines 1-13, page 9, lines 23-25). The system comprises a query module for searching the database for a link to said non-text indexable elements appearing in the record. (see, for example, page 9, lines 28-29, step 504 of Fig. 5). The system comprises a subsystem for creating a representation of the text and non-text indexable elements and assigning a location identifier to the representation of the text and non-text indexable elements, the location identifier corresponding to a location of a given text and non-text indexable element in the record; (see, for example, page 7, lines 2-13, page 7, lines 16-23). The system comprises a subsystem for storing the representation and the corresponding location identifier in association with the record. (see, for example, page 9, lines 23-25, page 5, line 16 to page 6, line 3). And the system comprises a subsystem for making an entry for the record in the index including the

representation and the corresponding location identifier. (see, for example, page 6, lines 23-27).

6. Grounds of Rejection to be Reviewed on Appeal

I. The rejection of claims 1-3, 6-9, 12-14 and 17-20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,643,641 in view of U.S. Publication No. 2002/0078043 in view of U.S. Patent No. 6,466,901 is improper because the references, alone or in combination, fail to teach or suggest all of the claimed limitations including assigning a location identifier to non-text indexable elements.

7. Argument

I. The rejection of claims 1-3, 6-9, 12-14 and 17-20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,643,641 in view of U.S. Publication No. 2002/0078043 in view of U.S. Patent No. 6,466,901 is improper because the references, alone or in combination, fail to teach or suggest all of the claimed limitations including assigning a location identifier to non-text indexable elements.

Claims 1, 7, 12 and 18 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,643,641 (“Snyder”) in view of U.S. Published Application No. 2002/0078043 (“Pass”) and further in view of U.S. Patent No. 6,466,901 (“Loofburrow.”) Appellants submit that this rejection is improper because none of the prior art references, alone or in combination, teach or suggest the claimed assignment of a location identifier to a non-text indexable element.

Appellants preliminarily note that the present prosecution included an in-person Examiner interview with Examiner Leroux prior to filing the Notice of Appeal. Appellants thank Examiner Leroux for courtesies extended in granting and conducting this interview. And after extensive discussion on the shortcomings of the asserted prior art references, to which Appellants felt that Examiner Leroux appreciated the differences,

Appellants submit the present Appeal Brief concurrent with the previously asserted positions regarding the shortcomings of Snyder, Pass and Loofburrow.

As to the rejection of claims 1, 7, 12 and 18: claims 1 and 12 recite “assigning a location identifier to one or more of a plurality of text and non-text indexable elements, the location identifier;” claim 7 recites “assigning a location identifier to one or more of the representations of the parsed text and non-text indexable elements;” and claim 18 recites “assigning a location identifier to the representation of the text and non-text indexable elements.”

The Examiner notes on page 3 of the final Office Action that: “The combination of Snyder and Pass discloses the elements of the claimed invention as noted above but does not disclose assigning a location identifier to one or more of the plurality of text and non-text indexable elements... Loofburrow discloses assigning a location identifier to one or more of the plurality of text and non-text indexable elements.” (lines 4-10). The Examiner cites to column 8, lines 25-35 of Loofburrow, along with the assertion that “index specifies location of the word token within the document.”

Appellants strenuously disagree with the Examiner’s assertions that Loofburrow teaches or suggests the claimed assigning of a location identifier to one or more text and non-text indexable elements. The Examiner cited passage of Loofburrow relates to word tokens, i.e. word stems, and is absolutely silent regarding assigning a location identifier to “non-text indexable elements.” For example, Loofburrow states that “after each word token has been reduced to a stem, as appropriate, it is passed from the buffer 23 to an indexer 60. The indexer operates in a conventional fashion to create an

index 62. Basically, each word token, or stem, that is presented to the indexer 60 is compared with all of the entries in the index.” (Loofburrow: col. 8, line 23-28).

Loofburrow relates solely to text elements, whether they be words themselves or word token (stems). Loofburrow is silent regarding non-text indexable elements and therefore does not and cannot teach or suggest “assigning a location identifier to one or more text and non-text indexable elements.”

Additionally, Loofburrow explicitly teaches away from indexing relating to non-text elements when performing a beginning filtering operation on the documents or files to searched under the Loofburrow system. Loofburrow defines a “document” as “any body of textual content that may be relevant to a user’s query.” In more precise terms, Loofburrow explicitly excludes any documents that include non-textual content. Column 3, lines 59-63 of Loofburrow describes the handling of all elements that are not textual in nature, wherein “certain types of files are not likely to yield useful information. Examples of these types of files include application programs, compressed databases, graphics, etc. Prior to conducting the indexing procedure, therefore, these types of files can be eliminated from consideration.” (emphasis added) In other words, Loofburrow **explicitly** excludes non-text indexable elements and therefore cannot be reasonably interpreted to teach or suggest “assigning a location identifier to one or more of the plurality of text **and non-text indexable elements.**” (emphasis added).

In the Response to Arguments section on page 5 of the Final Office Action, the Examiner notes that: “one cannot show nonobviousness by attacking references individually where the rejections are based on combination of references.” Appellants do not disagree. Rather, in the present Appeal, as well as was noted in the

context of the in-person Examiner Interview, Appellants agree with the Examiner's assertions regarding the shortcomings of Snyder and Pass (i.e. that Snyder and Pass do not disclose assigning a location identifier corresponding to a location of a given text and non-text indexable element") but disagree with Examiner's assertions regarding the teaching or suggestion of Loofburrow because the Examiner's assertions regarding the teaching or suggestion of Loofburrow are unreasonable (Loofburrow focuses only on text and not non-text) and in direct contradiction to the exact language of Loofburrow (the Loofburrow system discards graphics prior to performing any assigning operations).

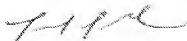
Accordingly, Appellants submit the rejection of claims 1, 7, 12 and 18 under 35 U.S.C. §103(a) based on the combination of Snyder, Pass and Loofburrow combination is improper. Moreover, 2-3, 6, 8-9, 13-14, 17 and 19-20 are additionally patentable.

8. Conclusions

For the reasons set forth above, Appellant respectfully requests that the Board reverse the final rejection of the claims by the Examiner under 35 U.S.C. § 103(a) and indicate that claims 1-3, 6-9, 12-14 and 18-20 are allowable.

Dated: January 27, 2009

Respectfully submitted,



THIS CORRESPONDENCE IS BEING SUBMITTED
ELECTRONICALLY THROUGH THE PATENT AND
TRADEMARK OFFICE EFS FILING SYSTEM ON
January 27, 2009.

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Claims Appendix

1. (Rejected) A method for providing at least one search result responsive to a search query comprising at least one search query term, the method comprising:
 - parsing a set of pages for a plurality of text and non-text indexable elements;
 - assigning a location identifier to one or more of the plurality of text and non-text indexable elements, the location identifier corresponding to a location of a given text and non-text indexable element in a given page from the set of pages;
 - storing the plurality of text and non-text indexable elements and the corresponding location identifier for the one or more of the plurality of text and non-text indexable elements in a computer readable medium as a plurality of records;
 - receiving the search query to request a stored record, the search query received from a user across a networked connection;
 - searching said plurality of records to determine text and non-text indexable elements that correspond to the search query;
 - transmitting at least one text element representation of said query result to the user across the networked connection; and
 - transmitting at least one non-text element representation of said query result to said user across the networked connection.
2. (Rejected) The method of claim 1, wherein the non-text elements comprises an image.
3. (Rejected) The method of claim 1, wherein the record comprises a Webpage.

4. (Cancelled)

5. (Cancelled)

6. (Rejected) The method of claim 1, wherein the non-text indexable element comprises a sound file.

7. (Rejected) A method for indexing records in an index of the world wide web, the method comprising:

receiving a record from the world wide web;

parsing the record for associated text and a non-text indexable elements;

creating representations of the parsed text and non-text indexable elements;

assigning a location identifier to one or more of the representations of the parsed text and non-text indexable elements, the location identifier corresponding to a location of a given text and non-text indexable element in the record; and

storing the representations and the corresponding location identifiers in association with the record as a one or more word location pairs.

8. (Rejected) The method of claim 7, wherein the non-text indexable element comprises an image.

9. (Rejected) The method of claim 7, wherein the record comprises a Web page.

10. (Cancelled)

11. (Cancelled)

12. (Rejected) A system for providing at least one search result responsive to a search query comprising at least one search query term, the system comprising:

a parse module for parsing the at least one record for text and non-text indexable elements and assigning a location identifier to one or more of the plurality of text and non-text indexable elements, the location identifier corresponding to a location of a given text and non-text indexable element in the at least one record;

an indexing module for indexing the text and non-text indexable elements and the corresponding location identifier for the one or more of the plurality of text and non-text indexable elements;

a query module for receiving the search query, the search query requesting at least one text and non-text indexable element in the world wide web, the search query received from a user across a networked connection;

a search module for locating corresponding text and non-text indexable element relating to the search query; and

a transmitter for transmitting a representation of the non-text indexable element and a text representation corresponding to the search query result to the user across the networked connection.

13. (Rejected) The system of claim 12, wherein the object comprises an image.

14. (Rejected) The system of claim 12, wherein the record comprises a Web page.

15. (Cancelled)

16. (Cancelled)

17. (Rejected) The system of claim 12, wherein the object comprises a hyperlink to a sound file.

18. (Rejected) A system for indexing records in an index of an information network, comprising:

a parser for parsing a record for text and non-text indexable elements;

a database for storing said text and non-text indexable elements;

an query module for searching the database for a link to said non-text indexable elements appearing in the record;

a subsystem for creating a representation of the text and non-text indexable elements and assigning a location identifier to the representation of the text and non-text indexable elements, the location identifier corresponding to a location of a given text and non-text indexable element in the record;

a subsystem for storing the representation and the corresponding location identifier in association with the record; and

a subsystem for making an entry for the record in the index including the representation and the corresponding location identifier.

19. (Rejected) The system of claim 18, wherein the object comprises an image.

20. (Rejected) The system of claim 18, wherein the record comprises a Web page.

21. (Cancelled)

22. (Cancelled)

Evidence Appendix

No evidence has been submitted or relied upon in the instant appeal.

Related Proceedings Appendix

There are no related proceedings which are related to or would have a bearing on the instant appeal.